

Please amend claim 9, as follows:

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9 (Amended). A method for establishing a communication link, comprising:  
transmitting predetermined carriers to a responding communication device;  
receiving predetermined carriers from the responding communication device, in  
response to the predetermined transmitted carriers, and  
selecting an appropriate communication device from a plurality of communication  
devices, in accordance with the received predetermined carriers, to establish a  
communication channel, wherein the transmitting of predetermined carriers comprises  
transmitting the carriers in accordance with neighboring receiving systems.

#### REMARKS

Re-examination and allowance of the above-captioned application is respectfully requested.

Initially, Applicant notes that the restriction requirement of December 7, 2001 has been made final, and claims 11-30 and 39-41 have been withdrawn from consideration. By the current amendment, Applicant cancels, without prejudice withdrawn claims 11-30 and 39-41. However, Applicant expressly reserves the right to submit similar type claims in another application.

Applicant thanks the Examiner for indicating that claims 2, 4, 5, 9 and 10 contain allowable subject matter, and that these claims would be allowable if amended to be placed in independent form, including the limitations of their respective base claim and any intervening claims. By the current amendment, Applicant revises claims 2, 4 and 9 to be

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presented in an independent form, including substantially all the limitations of the respective base claim (there being no intervening claims). Applicant notes that claim 5 depends from claim 4, while claim 10 depends from claim 9. Accordingly, Applicant submits that it is not necessary to place claims 5 and 10 into independent form. The Examiner is respectfully requested to re-confirm the allowability of claims 2, 4, 5, 9 and 10.

Applicant respectfully traverses the 35 U.S.C. § 102(b) rejection of claims 35-38 as being anticipated by U.S. Patent 4,953,210 to McGLYNN et al., the 35 U.S.C. § 102(e) rejection of claims 1, 3, 6-8 and 31-38 as being anticipated by U.S. Patent 6,044,107 to GATHERER et al. However, in order to advance the prosecution of the instant application, Applicant elects to cancel claims 1, 3, 6-8 and 31-38. Cancellation of these claims are not to be taken as an acquiescence of the appropriateness of the rejections, but as a desire to advance the prosecution of the present application to allowance, and is not to be construed a decision by Applicant to narrow the claims nor as surrendering equivalents of the territory between the claims prior to the present amendment and the amended claims. Further, Applicant expressly reserves the right to submit similar type claims in another application. As a result of the present action, Applicant submits that the grounds for the 35 U.S.C. §102 rejections no longer exist, and respectfully request withdrawal of these grounds of rejection.

In view of the present amendment, Applicant submits that claims 2, 4, 5, 9 and 10 are in condition for allowance. The Examiner is respectfully requested to indicate the allowability of the pending claims, and to pass the application to issue.

SUMMARY AND CONCLUSION

In view of the fact that none of the art of record, whether considered alone or in combination, discloses or suggests the present invention as defined by the pending claims, and in further view of the above amendments and remarks, reconsideration of the Examiner's action and allowance of the present application are respectfully requested and are believed to be appropriate.

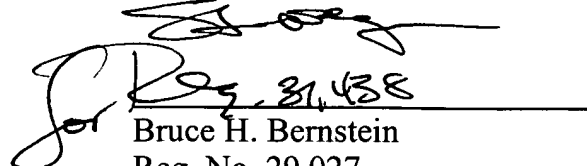
Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should the Commissioner determine that an extension of time is required in order to render this response timely and/or complete, a formal request for an extension of time, under 37 C.F.R. § 1.136(a), is herewith made in an amount equal to the time period required to render this response timely and/or complete. The Commissioner is authorized to charge any required extension of time fee under 37 C.F.R. § 1.17 to Deposit Account No. 19-0089.

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If there should be any questions concerning this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,  
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**APPENDIX A - MARKED-UP CLAIMS**

2 (Amended). An [The] apparatus [of claim 1] for establishing a communication link, comprising:

a negotiation data transmitting section, associated with a plurality of initiating communication devices, that transmits carriers to a responding communication device;

a negotiation data receiving section, associated with the plurality of initiating communication devices, that receives carriers from said responding communication device, in response to said transmitted carriers, and

a selecting device that selects an appropriate communication device from the plurality of communication devices, in accordance with said responding communication device, to establish a communication channel, wherein said transmitted carriers contain data related to a useable carrier allocation.

4 (Amended). An [The] apparatus [of claim 1] for establishing a communication link, comprising:

a negotiation data transmitting section, associated with a plurality of initiating communication devices, that transmits carriers to a responding communication device;

a negotiation data receiving section, associated with the plurality of initiating communication devices, that receives carriers from said responding communication device, in response to said transmitted carriers, and

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a selecting device that selects an appropriate communication device from the plurality of communication devices, in accordance with said responding communication device, to establish a communication channel, wherein said negotiation data transmitting section transmits said carriers in accordance with neighboring receiving systems.

9 (Amended). A [The] method [of claim 7] for establishing a communication link, comprising:

transmitting predetermined carriers to a responding communication device;

receiving predetermined carriers from the responding communication device, in response to the predetermined transmitted carriers, and

selecting an appropriate communication device from a plurality of communication devices, in accordance with the received predetermined carriers, to establish a communication channel, wherein the transmitting of predetermined carriers comprises transmitting the carriers in accordance with neighboring receiving systems.